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9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12

13 FINJAN LLC,

14 Plaintiff,

15 v.

16 PALO ALTO NETWORKS, INC.,

17 Defendant.
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Case No. 3:14-CV-04908-RS

**ADMINISTRATIVE MOTION TO
FILE UNDER SEAL PORTIONS
OF EXHIBITS TO DEFENDANT
PALO ALTO NETWORKS,
INC.'S RENEWED MOTION TO
STRIKE AND DISMISS AND
SUPPORTING MATERIALS**

Courtroom: 3, 17th Floor
Judge: Honorable Richard Seeborg

1 In accordance with Civil Local Rules 7-11 and 79-5 and Section 14.4 of the Stipulated
 2 Protective Order (Dkt. No. 110), Defendant Palo Alto Networks, Inc. (“PAN”) submits this
 3 Motion for an order to file under seal the highlighted portions of the exhibits to PAN’s Renewed
 4 Motion to Strike the Infringement Contentions for the ’408 and ’731 Patents and to Dismiss these
 5 Claims with Prejudice (“Motion”).

6 I. LEGAL STANDARD

7 PAN’s Motion is a dispositive motion, therefore, the “compelling reasons” standard
 8 applies to this sealing request. *See Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179
 9 (9th Cir. 2006) (“compelling reasons must be shown to seal judicial records attached to a
 10 dispositive motion”) (internal quotations omitted). Courts have found that there are compelling
 11 reasons to seal “sources of business information that might harm a litigant’s competitive
 12 standing.” *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1097 (9th Cir. 2016)
 13 (internal quotations omitted).

14 II. DISCUSSION

15 A. Specific Details of Source Code

16 PAN seeks to seal highlighted portions in Exhibits 8, 9, 14 and 15 that contain specific
 17 details of the PAN-OS and hardware source code that runs the accused Next-Generation Firewall
 18 (“NGFW”) products. These proposed redactions occur on pages 124-125, 128-129 of Exhibit 8 to
 19 the accompanying Declaration of Michael J. DeStefano (“DeStefano Decl.”); pages 125-126 of
 20 DeStefano Decl. Exhibit 9; pages 119-125 of DeStefano Decl. Exhibit 14; and page 289 of
 21 DeStefano Decl. Exhibit 15.

22 The proposed redactions are narrowly tailored: they list specific functions in PAN’s
 23 source code and discuss in detail how particular functions in PAN’s source code operate,
 24 including their specific capabilities and what other functions are called by the particular
 25 functions. (Decl. of Michael J. DeStefano in Support of Administrative Motion to File Under Seal
 26 (“DeStefano Decl.”), filed herewith, ¶ 4.) PAN’s source code is highly confidential and
 27 proprietary to PAN. (*Id.*) PAN does not publicly disclose or describe how particular functions in
 28 PAN’s source code operate. (*Id.*) PAN derives a business advantage from this information not

1 being known by PAN's competitors or the general public. (*Id.*) There are compelling reasons to
 2 seal such information because disclosure of this highly confidential information would allow
 3 PAN's competitors to reverse engineer and copy PAN's products with little effort. (*Id.*)
 4 Disclosure of this information would also help PAN's competitors advance their own technical
 5 development and shape their business decisions, thereby harming PAN's competitive standing in
 6 the cybersecurity industry. (*Id.*) The confidentiality interests of PAN therefore outweigh the right
 7 of public access to the record, as a substantial probability exists that PAN's confidentiality
 8 interests will be prejudiced if the information is made public. (*Id.*) Moreover, given the nature of
 9 the products at issue (network security products) and in view of recent cyberattacks with major
 10 impact (e.g., 2020 attack using several vectors impacting the U.S. federal government, state
 11 governments, and private sector), disclosure of this information could compromise the security of
 12 computers and networks protected by PAN's products. (*Id.*) Finally, the information PAN
 13 requests to be sealed concerns source code under the Protective Order previously entered by the
 14 Court and has been designated as such by PAN. (Dkt. No. 110 § 2.9.)

15 Sealing is also justified because courts in this district, including this Court, have
 16 previously granted motions to file under seal specific details of source code under the compelling
 17 reasons standard. *See, e.g., Zellmer v. Facebook, Inc.*, No. 3:18-cv-01880-JD, 2022 U.S. Dist.
 18 LEXIS 60253, *8 (N.D. Cal. Mar. 31, 2022) (granting sealing of expert report that "contains
 19 detailed analysis of Facebook's source code" under the compelling reasons standard); *Open Text*
 20 *S.A. v. Box, Inc.*, No. 13-CV-04910-JD, 2014 WL 7368594, at *3 (N.D. Cal. Dec. 26, 2014)
 21 (granting the party's motion to seal "highly confidential, non-public details relating to [] product
 22 design and source code" under the compelling reasons standard); *see also Network Appliance,*
 23 *Inc. v. Sun Microsystems Inc.*, No. C-07-06053 EDL, 2010 WL 841274, at *5 (N.D. Cal. Mar. 10,
 24 2010) (granting sealing of excerpts of opposition to summary judgment motion that include
 25 "detailed information regarding NetApp's proprietary source code" under the compelling reasons
 26 standard); *Apple, Inc. v. Samsung Elecs. Co.*, No. 11-CV-01846-LHK, 2012 WL 4068633 (N.D.
 27 Cal. Sept. 14, 2012) (finding compelling reasons to seal and granting sealing of documents
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1 discussing confidential source code and detailed technical information).

2 PAN seeks only limited redactions of specific discussions about particular functions in
3 PAN's source code. Thus, the proposed sealing is narrowly tailored, and no less restrictive means
4 exist to protect PAN's overriding confidentiality interests and the public's security interests.

5 **B. Pathnames and Filenames of Source Code**

6 PAN seeks to seal highlighted portions in Exhibits 8, 9, 11, 13, 14 and 15 that contain
7 pathnames and filenames of the PAN-OS and hardware source code that runs the accused NGFW
8 products. These proposed redactions occur on pages 108-109, 121-128 of DeStefano Decl.
9 Exhibit 8; pages 109, 123-126 of DeStefano Decl. Exhibit 9; pages 183-184 of DeStefano Decl.
10 Exhibit 11; pages 118-125, 165 of DeStefano Decl. Exhibit 13; pages 118-125 of DeStefano Decl.
11 Exhibit 14; and page 289 of DeStefano Decl. Exhibit 15.

12 The proposed redactions are narrowly tailored and include only the source code
13 pathnames and filenames. (DeStefano Decl. ¶ 5.) PAN's source code is highly confidential and
14 proprietary to PAN. (*Id.*) The large number of source code pathnames and filenames included in
15 the Exhibits provide insights into the confidential internal architecture and operation of PAN's
16 products. (*Id.*) There are compelling reasons to seal such information because access to the
17 internal architecture and operation of PAN's products would help PAN's competitors advance
18 their own technical development and shape their business decisions, thereby harming PAN's
19 competitive standing in the cybersecurity industry. (*Id.*) The confidentiality interests of PAN
20 therefore outweigh the right of public access to the record, as a substantial probability exists that
21 PAN's confidentiality interests will be prejudiced if the information is made public. (*Id.*) Finally,
22 the information PAN requests to be sealed concerns source code under the Protective Order
23 previously entered by the Court and has been designated as such by PAN. (Dkt. No. 110.)

24 Sealing is also justified because courts in this district, including this Court, have
25 previously granted motions to file under seal filenames or directories of source code under the
26 compelling reasons standard. *Finjan, Inc. v. Proofpoint, Inc.*, No. 13-CV-05808-HSG, 2016 WL
27 7429304, at *2 (N.D. Cal. Feb. 9, 2016) (finding "compelling reasons to seal confidential,
28 sealable information, including source code directories"). PAN seeks only limited redactions of

1 pathnames and filenames of PAN's source code. Thus, the proposed sealing is narrowly tailored,
2 and no less restrictive means exist to protect PAN's overriding confidentiality interests and the
3 public's security interests.

4 C. Specific Technical Details

5 PAN seeks to seal highlighted portions in Exhibits 8, 11, 13, and 14 that contain specific
6 technical details regarding the accused Next Generation Firewall products ("NGFW") and
7 WildFire products. These proposed redactions occur on pages 116 - 118 of DeStefano Decl.
8 Exhibit 8; pages 168, 181-184 of DeStefano Decl. Exhibit 11; pages 111-114, 116, 144-149, 165
9 of DeStefano Decl. Exhibit 13; and pages 112-114, 116, 144, 165 of DeStefano Decl. Exhibit 14.

10 NGFW is an industry-leading family of physical, virtualized, and containerized firewalls
11 that leverage machine learning for proactive protection.¹ The technical details regarding PAN's
12 NGFW products include configuration of the NGFW infrastructure, detailed workflow inside the
13 NGFW products, and specific capabilities of key components of the NGFW products. (DeStefano
14 Decl. ¶ 6.) WildFire is the industry's most advanced analysis and prevention engine to identify
15 and block targeted and unknown malware.² The technical details regarding PAN's WildFire
16 products include configuration of the WildFire infrastructure, detailed workflow inside the
17 WildFire products, and specific capabilities of key components of the WildFire products.
18 (DeStefano Decl. ¶ 6.) Technical details regarding PAN's NGFW and WildFire products are
19 highly confidential and proprietary to PAN. (*Id.*) PAN does not publicly disclose or describe this
20 information. (*Id.*) PAN's products succeed in the marketplace because they are of the highest
21 quality and performance. (*Id.*) These advantages are directly attributable to the technical details
22 and inner workings of PAN's products. (*Id.*) Public disclosure of this highly confidential
23 information would allow PAN's competitors to reverse engineer and achieve similar results in
24 their own products. (*Id.*) Disclosure of this information would also help PAN's competitors
25 advance their own technical development and shape their business decisions, thereby harming
26 PAN's competitive standing in the cybersecurity industry. (*Id.*) The confidentiality interests of
27 PAN therefore outweigh the right of public access to the record, as a substantial probability exists
28 that PAN's confidentiality interests will be prejudiced if the information is made public. (*Id.*)

1 Finally, given the nature of the products at issue (network security products) and in view of recent
 2 cyberattacks with major impact (e.g., 2020 attack using several vectors impacting the U.S. federal
 3 government, state governments, and private sector), disclosure of this information could
 4 compromise the security of computers and networks protected by PAN's products. (*Id.*)

5 Sealing is also justified because courts in this district, including this Court, have
 6 previously granted motions to file under seal technical details of the products under the
 7 compelling reasons standard. *Largan Precision Co. v. Genius Elec. Optical Co.*, No. 3:13-cv-
 8 02502-JD, 2015 U.S. Dist. LEXIS 28698, at *4 (N.D. Cal. Mar. 9, 2015) (finding "compelling
 9 reasons to seal information regarding technical details of the lens products at issue"); *Cisco Sys.*
 10 *Inc. v. Arista Networks, Inc.*, No. 14-cv-05344-BLF, 2016 U.S. Dist. LEXIS 113391, at *7, 8, 17,
 11 35-36 (N.D. Cal. Aug. 24, 2016) (finding compelling reasons to seal and granting sealing of
 12 information regarding "confidential product development/roadmap information about
 13 [defendant]'s products," "specific functionality in [defendant]'s products," "sensitive and non-
 14 public aspects of the source code underlying [defendant]'s products," and "the inner workings of
 15 [defendant]'s products and their technological capabilities"); *In re Yahoo! Inc. Customer Data*
 16 *Sec. Breach Litig.*, No. 16-MD-02752-LHK, 2018 WL 9651897, at *3 (N.D. Cal. Jan. 3, 2018)
 17 (finding compelling reasons to seal "detailed information about the technology Yahoo uses to
 18 protect its users' information").

19 PAN seeks to seal limited redactions of only information that would allow others to gain
 20 access to PAN's closely-guarded product details. Thus, the proposed sealing is narrowly tailored,
 21 and no less restrictive means exist to protect PAN's overriding confidentiality interests and the
 22 public's security interests.

23 III. CONCLUSION

24 PAN's request is "narrowly tailored to seek sealing only of sealable material," in
 25 accordance with Civil Local Rule 79-5(b) and Section 14.4 of the Stipulated Protective Order
 26 (Dkt. No. 110).

27 Accordingly, PAN requests that the Court grant its Administrative Motion to Seal.
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1 Dated: September 11, 2024

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